



TENNESSEE REAL ESTATE APPRAISER COMMISSION

REAL ESTATE APPRAISER REPORT

TENNESSEE DEPARTMENT OF COMMERCE & INSURANCE

Winter 2001 Vol. 11 No. 3

A TIME TO REFLECT

By Robert Sain,
Chairman



It's that time of year again. The time that we all usually stop and give thanks for the many blessings, friends, family, and associates we take for granted each and every day. It's the time we usually try and think of something good we can do for someone, a way we can show our appreciation and love for our neighbors, a time to think about giving rather than receiving.

But something is very special about this holiday season. It started early, amidst the darkness of one of the most horrific and devastating terrorist acts of all time. Our hearts became touched on September 11 in a way that has never been felt before. A heartwarming unity not only by Americans, but people of all nationalities joined in the most amazing display of support ever witnessed. All across the United States, prayer meetings were held, American flags waved, and people did whatever they could, from donating blood, to giving money to help the families that lost loved ones. I think all of us can think of a news story, article, or event that brought tears to our eyes. We were all so touched by the singing of the national anthem from other countries – not theirs, but ours. It's nice to see our children reciting the Pledge of Allegiance, without opposition! If you didn't before, all of a sudden you could feel the chills when the Star Spangled

Banner was played. At sporting events, as the cameras scanned the crowd, you could see tears being wiped away, and pride in every eye when the National Anthem and God Bless America were played. That torn flag flying high in Yankee Stadium, the Eagle soaring through the air, and Lee Greenwood singing Proud to be an American, was even more thrilling than the bottom of the ninth inning! We are proud! It's just so sad that it took a national crisis to bring us together.

The challenge I make to this commission and to appraisers is to continue the warm, courteous, and proud attitudes we have displayed since September 11 into the future.

Share a smile with a stranger, continue to help one another, and work together within our profession. We all have a common bond, and it is important that we be available for each other. We need to sustain this mood of unity we feel as we move into the future. This commission and staff is dedicated to work for the good of all appraisers across the state, and I hope you will join us in that effort.

Members of the commission, staff, and I, would like to take this special opportunity to wish you and your family the best holiday season ever! We are available, and look forward to serving your needs in the future.

Merry Christmas from the Tennessee Real Estate Appraiser Commission



Left to right, Back row: William Blackburn, Appraiser Member, Dr. Reginald Peyton, Public Member, Robert Sain, Chairman, Joyce Branham, Licensing Technician, Gary Standifer, Vice Chairman.
Left to right, Front row: Sandy Moore, Administrative Director, Sam Pipkin, Appraiser Member, Daryl Nelkin, Public Member, Darlene Hendrix, Administrative Assistant, Polly Dyer, Appraiser Member, Chelsey Luke, Administrative Assistant, Luther Bratton, Appraiser Member

Danny Wiley Appointed as Chair of ASB

Danny Wiley, a certified general real estate appraiser in Nashville, has been appointed as the 2002 Chair to the Appraisal Standards Board (ASB) of The Appraisal Foundation. He has served as a member of the ASB for one year.

We congratulate Danny on this prestigious position.

Important Continuing Education Information



Distance Education - Seven (7) hours of continuing education may be granted for distance (Internet) education for each licensee renewal period. These seminars must be pre-approved by the Commission, either submitted by the provider or by individual course approval from the licensee. The remaining twenty-one (21) hours of education must be obtained in a classroom setting. No exam is required for distance education. Proof of completion of the seminar must be provided to the licensee by the course provider and then submitted to the Commission by the licensee upon renewal.

USPAP Courses - The 15-hour minimum USPAP course (which is required at least every five (5) years) must be successfully completed by an exam in order to be credited for continuing education.

Renewal - Continuing education, as well as renewal fees, should be received in the Commission office at least thirty (30) days prior to the expiration date to avoid a \$100 late fee. Because of this requirement, seminars or courses taken within the thirty (30)-day period prior to the expiration date may be credited toward the next renewal, provided the same education was not used for the former renewal.

USPAP Q & A



This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. The ASB USPAP Q&A is issued to inform appraisers, regulators, and users of appraisal services of the ASB responses to questions raised by regulators and individuals; to illustrate the applicability of the Uniform Standards of Professional Appraisal Practice (USPAP) in specific situations; and to offer advice from the ASB for the resolution of appraisal issues and problems. The ASB USPAP Q&A do not constitute a legal opinion of the ASB.

Question:

I was told that, because SR 2-5 was eliminated from the USPAP in 2001, a supervisor or employer who signs a report is no longer as responsible as the individual preparing the appraisal and that using a conditional label next to the signature of the supervisor or employer exempts that individual from adherence to USPAP. Is this true?

Response:

No, it is not true, if the supervisor or employer is an appraiser. The references to "supervisor" and "employer" were removed; however, the new language added to the Comment to SR 2-3 (as well as similar language added to SR 3-2, 8-3 and 10-3) specifically requires that "An appraiser who signs any part of the appraisal report, including a letter of transmittal, must also sign this certification." It further states "Any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report."

Question:

I am performing a review of a real property appraisal and my client has asked me to give my opinion of value, even if I agree with the value in the appraisal. Does my concurrence constitute an appraisal opinion? If so, what do I need to do to comply with USPAP?

Response:

Yes, if you concur with the value in the report, it does constitute an appraisal by the reviewer. SR 3-1 (a) states: "If the purpose of the assignment includes the reviewer developing his or her own opinion of value about the subject property of the work under review, that opinion is an appraisal whether it: • **concurs with the opinion of value in the work under review**, as of the date of value in that work or a different date of value; or differs from the opinion of value in the work under review, as of the date of value in that work or a different date of value. (bold added for emphasis) You should be careful to be sure that your scope of work clearly includes the requirement to develop your own opinion of value (i.e. an appraisal). The Comment to SR 3-1 (c) shows the steps that must be taken when the purpose of an appraisal review includes the reviewer expressing his or her own opinion of value. One of these requirements is that you must satisfy Standard 1 (or Standard 7 for a personal property appraisal review). Specifically, whether you concur or disagree with the value in the appraisal being reviewed, you would extend to your development process those items in that appraisal that you conclude are credible and in compliance with Standard 1 in this case. This is accomplished on the basis of an extraordinary assumption. Those items not deemed to be credible or in compliance must be replaced with information or analysis by the reviewer. Additional advice is contained in Advisory Opinion 20, "An Appraisal Review Assignment that Includes the Reviewer's Own Opinion of Value".

Question:

A client has asked me to perform a review appraisal on a restricted use appraisal report. Can I do this and comply with USPAP?

Response:

Yes, you can. However, in order to comply with USPAP, the review appraiser must have access to the original appraiser's work file. The extremely brief reporting nature of many restricted use appraisal reports makes reviewing these reports feasible only if the workfile is also available. The 2001 USPAP states at

SR 2-2 (c) (ix); "...The review of a *Restricted Use Appraisal Report in compliance with STANDARD 3 is not possible without the reviewer having benefit of the information retained in the workfile.*" Therefore, the appraiser performing the review must gain access to the file in order to accept such an assignment.

Question:

If a home has been sold more than once in the past year, am I required to analyze all of the sales, or just the most recent sale? Also, what am I required to do if a transfer of ownership is due to a foreclosure, or is between family members or other related parties?

Response:

Advisory Opinion 1 (AO-1) addresses the appraiser's obligations with respect to prior sales of the subject. It states in part: "USPAP Standards Rules 1-5(a) and (b) require an appraiser to analyze (1) any current Agreement of Sale, option, or listing of the property being appraised, if such information is available to the appraiser in the normal course of business, and (2) any prior sales of the property being appraised that occurred within one year for a one-to-four family residential property or within three years for all other property types. In any case, USPAP Standards Rules 2-2(a)(ix), (b)(ix), and (c)(ix) call for the written appraisal report to contain sufficient information to indicate compliance with the sales history requirement. Standards Rules 2-2(a)(ix), (b)(ix), and (c)(ix) further require that, if sales history information is unobtainable, the written appraisal report must include a commentary on the efforts taken by the appraiser to obtain the information." Therefore, you must report and analyze **all** of the sales, not just the most recent one. This would also include **any** type of sale, whether it was arm's length or not. If a sale was between family members, or otherwise related parties, or involved a foreclosure, the appraiser is still obligated to report it and analyze it. In addition, if sales, listings, etc. from prior periods (i.e. beyond the one or three year periods) are known and considered relevant to the appraisal of the subject property, they should also be reported and analyzed.

Question :

It is my understanding that lenders are required to provide borrowers with a copy of the appraisal performed in conjunction with their loan if the borrower requests the appraisal in writing within a certain time frame. Does this requirement mean that borrowers are also intended users of the appraisal report?

Response:

No, the fact that a borrower or anyone else receives a copy of the appraisal report does not make them an intended user. The concept of an "intended user" in USPAP is framed within the context of the appraiser-client relationship. An "intended user" is defined as follows: *the client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report, by the appraiser on the basis of communication with the client at the time of the assignment.* There are several things to note in this definition. First, intended users of the appraisal report must be identified by the client. Secondly, this identification is made at the time of the engagement process so the appraiser can make a prudent judgment about the scope of work to apply in the assignment and the level of detail to include in the report. It is also worth noting that the concept of "intended use" and "intended users" are related to the purpose of the assignment. Appraisals reports for loan transactions are typically used to substantiate real property value as underlying collateral for a particular loan. The fact that the lending institution is required by law or regulation to make certain disclosures, to the borrower about the loan and the basis for the loan decision, does not alter the purpose, the intended use or the intended users of the appraisal assignment. Statement on Appraisal Standards No. 9 further clarifies this issue by stating, *A party receiving a report copy from the client does not, as a consequence, become a party to the appraiser-client relationship. Parties who receive a copy of an appraisal, appraisal review, or appraisal consulting report as a consequence of disclosure requirements applicable to an appraiser's client do not become*

intended users of the report unless the client specifically identifies them at the time of the assignment.

Question:

Is it a violation of USPAP to offer as a marketing tool for my services a coupon for a 10% discount off the cost of an appraisal to potential clients such as mortgage lenders and the general public?

Response:

The Management section of the ETHICS RULE states: *The payment of **undisclosed** fees, commissions, or **things of value** in connection with the procurement of an assignment is unethical.* **(emphasis added)** Comment: *Disclosure of fees, commissions, or things of value connected to the procurement of an assignment must appear in the certification of the written report and in any transmittal letter in which conclusions are stated.* The use of a coupon as a marketing tool would not be a violation of the ETHICS RULE. However, a coupon for a reduced fee would be a thing of value connected to the procurement of an assignment. Therefore, proper disclosure must be made in the certification of the written report and in any transmittal letter in which value conclusions are stated.

Question:

Frequently, the borrower in a lending transaction is provided with a copy of the appraisal report; and in some cases, the appraiser knows that the borrower will be receiving a copy of the appraisal report. When the appraiser is aware that the borrower or any other third party will receive a copy of the appraisal, does this make that third party an intended user?

Response:

Not necessarily - USPAP defines the Intended User as: *the client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report, by the appraiser on the basis of communication with the client at the time of the assignment.* The intended use of an appraisal appraisal review, or appraisal consulting assignment conclusions and opinions is **established by the client and agreed to by the appraiser.** It is crucial for the appraiser to know the identity of all intended users and of their

requirements in order to correctly understand the intended use of the report. Statement No. 9 (SMT-9) in USPAP provides further guidance on this issue, including in part: *"A party receiving a report copy from the client does not, as a consequence, become a party to the appraiser-client relationship. Parties who receive a copy of an appraisal, appraisal review, or appraisal consulting report as a consequence of disclosure requirements applicable to an appraiser's client do not become intended users of the report unless the client specifically identifies them at the time of the assignment."*

Question:

What information must be retained in an appraiser's workfile?

Response:

An appraiser must prepare a work file for each appraisal, appraisal review, or appraisal consulting assignment. The appraiser's assignment work file serves several purposes. As in many other professions, the discipline of enforcement by public agencies and peer review, together with one's self-discipline and dedication of effort, serves to ensure performance of assignments in compliance with professional standards. In addition to facilitating enforcement, a work file aids the appraiser in handling questions from the client or an intended user subsequent to the date of the report. An appraiser's assignment work file preserves evidence of the appraiser's consideration of all applicable data and statements required by USPAP and other information as may be required to support the appraiser's opinions, conclusions, and, in the case of an appraisal consulting assignment, recommendations. *The work file must include -- the name of the client and the identity, by name or type, of any other intended users; -- true copies of any written reports, documented on any type of media; -- summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification; and -- all other data, information, or documentation necessary to support the appraiser's opinions and conclusions and to show compliance with the Ethics Rule and all other applicable Standards, or*

references to the location(s) of such other documentation. Although the content and level of information detail required in the communication of assignment results is set forth in USPAP for written and oral reports, neither category of report is designed to provide all of the documentation necessary to comply with the work file requirements in the Record Keeping section of the ETHICS RULE. This is because the appraisal, appraisal review, or appraisal consulting assignment results are opinions and conclusions, which are a form of intellectual services, not a product, per se. Given this, complete documentation of the information an appraiser uses to develop assignment results would require replication of the appraiser's life experience and education in work file documentation; a practical impossibility. It is for this reason that the Record Keeping section of the Ethics Rule contains the phrase "...; and all other data, information, and documentation necessary to support the appraisers opinions and conclusions and to show compliance with this rule ..." (Emphasis by italics added). The level of documentation in a work file will differ from assignment to assignment, and by the category of report (oral or written) used to communicate the assignment results. The level of information detail in a written report diminishes, the amount of other documentation in the work file must increase to ensure the work file content, in total, meets the USPAP requirements. For example, the Self-Contained Appraisal Report option for a real or personal property appraisal will contain a comprehensive level of information detail, but cannot, as a practical matter, contain the sum total of an appraiser's experience that went into making the judgments required in the assignment. However, taken together, the Self-Contained Appraisal Report and the other documentation required in the work file can provide support to show that those judgments were sound and resulted in compliance with USPAP.

Question :

What is the difference between Negligence and Incompetence?

Response:

Negligence is defined as a type of failure relative to a standard of care 1 . It does not, by itself, imply incompetence but rather a lack of performance. Incompetence 2 , on the other hand, implies a lack of knowledge and ability. In appraisal practice, incompetence is illustrated by a lack of judgment and an inability to distinguish what is relevant from what is irrelevant. It is often exhibited in scope of work decisions where the level of research and analysis in a given assignment either exceeds or falls short of what is required for credible results. 1 Webster New World Dictionary & Thesaurus, Version 2.0, 1998, Accent Software International 2 ibid.

Question:

I have been asked by a client to appraise only the underlying land of a farm for the purpose of estimating the value of a conservation easement. Since the improvements are not being considered in the appraisal, does this assignment involve a hypothetical condition?

Response:

No. This assignment does not involve a hypothetical condition for the subject of the assignment is land only. The key here is defining the relevant characteristics of the subject of the appraisal. Standards Rule 1-2(e) requires the appraiser to, *"identify the characteristics of the property that are relevant to the purpose and intended use of the appraisal"*. Standards Rule 1-2(e)(v) goes on to add, *"whether the subject property is a fractional interest, physical segment or partial holding"*. In addition, the Comment to Standards Rule 1-2(e)(v) states, *"An appraiser is not required to value the whole when the subject of the appraisal is a fractional interest, a physical segment, or a partial holding"*. It is clear that USPAP allows the appraiser to value a physical segment of a property, including the underlying land. Standards Rules 2-2(a), (b) or (c) (iii) require the appraiser, in the appraisal report, to *"describe information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment"*. For further guidance, please reference Advisory Opinion 23 (AO-23), which is entitled "Identifying

the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment". It states, in part, that *"real estate can take many forms, such as land, land and improvements, improvements without the underlying land, or an infinite variety that involve one or more of the physical aspects of Real Estate."*

Question:

Why does USPAP require an appraiser to include a signed certification in the workfile and in all written reports?

Response:

The certification is the same for all written reports covered by the Standard Rules. A signed certification is also required to be included in the work file for any oral report given in compliance with USPAP. A signed certification evidences an appraiser's recognition of his or her ethical obligations. The elements of the certification that apply to development are listed as follows:

?the statements of fact contained in this report are true and correct.

?the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.

?I have no (or the specified) present or prospective interest in the property that is the subject of this report and no (or the specified) personal interest with respect to the parties involved.

?I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.

?my engagement in this assignment was not contingent upon developing or reporting predetermined results.

?my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal. The element of the certification that applies to development and reporting is:

?my analyses, opinions, and conclusions were developed, and this

report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice. The last two items have to do with disclosures relative to inspections and significant assistance.

?I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)

?no one provided significant real property appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal assistance must be stated.

Question:

I recently went to work for an appraisal company where the owner of the company requires that the workfile be kept solely at the office. He will not allow the appraisers who work for his company to make their own copies and keep them outside of the office. Can I comply with this company's requirement and still conform to the Record Keeping section of the ETHICS RULE in USPAP?

Response:

Yes, you can, provided the owner permits access to the file within the defined timeframe. The Record Keeping section of the ETHICS RULE states, in part; *...An appraiser must retain the workfile for a period of at least five (5) years after preparation or at least two (2) years after final disposition of any judicial proceeding in which testimony was given, whichever period expires last, and have custody of his or her workfile, or make appropriate workfile retention, access, and retrieval arrangements with the party having custody of the workfile.* Given this qualification, it is not necessary that the appraiser have custody of the workfile but it is necessary that the custodian of the workfile make the workfile accessible and retrievable within the stated timeframe.

Question:

I understand that the ASB retired Statement No. 8, *Electronic Transmission of Reports* effective

January 1, 2002. Does this mean I can no longer send appraisal reports electronically to my clients after that date?

Response:

No, you can continue to send your reports electronically. The ASB recently voted to retire Statement No. 8 because some of its requirements were out of date. There have been many changes since this Statement was originally adopted in 1995. Appraisers should still exercise the same level of care in transmitting their appraisal reports whether they are communicated orally, in a written report, or electronically. In particular, for all written reports the certification must be signed. A "signature" is defined in USPAP as: **SIGNATURE:** *personalized evidence indicating authentication of the work performed by the appraiser and the acceptance of the responsibility for content, analyses, and the conclusions in the report. Comment: A signature can be represented by a handwritten mark, a digitized image controlled by a personalized identification number, or other media, where the appraiser has sole personalized control of affixing the signature.*

Question:

What does it mean when the ASB retires a portion of USPAP?

Response:

To "retire" a portion of USPAP means to withdraw it so it is no longer of force. The ASB is responsible for promulgating, developing, publishing, interpreting, and amending the Uniform Standards of Professional Appraisal Practice. As such, it can decide to retire any portion of the USPAP if it is incorrect, no longer necessary or applicable, or otherwise deficient. However, in the public's eye, the acronym "USPAP" has come to refer to an annual publication of the Appraisal Foundation, which includes more than the Uniform Standards of Professional Appraisal Practice. For example, the Advisory Opinions and Glossary are not actually parts of the Uniform Standards of Professional Appraisal Practice, even though they are bound within the same publication. Since not all of the portions of USPAP constitute appraisal standards or have the weight of an appraisal standard, not

all parts of the document are subject to the same process of retirement. Retirement of those portions of USPAP that constitute appraisal standards must be exposed for a minimum of 30 days prior to any action by the ASB. This includes the DEFINITIONS, PREAMBLE, RULES, STANDARDS RULES, and STATEMENTS ON APPRAISAL STANDARDS. The Advisory Opinions and the Glossary can be adopted, removed, or modified by the ASB without prior notice.

Question:

I understand the ASB recently made changes to USPAP that are effective as of July 1, 2001. Is that true? And, what were those changes?

Response:

Yes, that is true. Due to recent federal regulatory activity, most notably the Federal Trade Commission's Final Rule on Privacy of Consumer Financial Information, 16 CFR Part 313, that takes effect on July 1, 2001, the ASB voted to make certain sections of the newly adopted material effective simultaneously on July 1, 2001. The following changes to USPAP adopted by the ASB were effective July 1, 2001: 1. The Confidentiality section of the ETHICS RULE was edited to illustrate that, *"an appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment."* Additionally, text was added to indicate that disclosure of confidential information is permissible to professional peer review committees, *"except when such disclosure to a committee would violate applicable law or regulation."* A notice regarding the adoption of federal privacy regulations was also added to this section. 2. The DEFINITION of "Confidential Information" was changed to read: *CONFIDENTIAL INFORMATION: information that is either: ?identified by the client as confidential when providing it to an appraiser and that is not available from any other source; or ?classified as confidential or private by applicable law or regulation.* A notice regarding the adoption of federal privacy regulations was also added to this definition. 3. STATEMENT NO. 5

(SMT-5), *The Confidentiality Section of the Ethics Rule*, was retired.

Question:

The Record Keeping section of the ETHICS RULE states, in part: *The workfile must include...true copies of any written reports...* Does a true copy have to include a signature on the certification?

Response:

Yes, a true copy is a replica of the report sent to the client. Any signatures that were affixed to the original report must also exist on the copy for the workfile.

Question:

What is the difference between a client and an intended user?

Response:

The term "Client" is defined in the DEFINITIONS section of USPAP as *"the party or parties who engage an appraiser (by employment or contract) in a specific assignment."* The term "Intended User" is defined as *"the client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report, by the appraiser on the basis of communication with the client at the time of the assignment."* Eventual receipt of a copy of an appraisal, appraisal review, or appraisal consulting report does not make the recipient an intended user. To be an **intended user** the recipient must have been **identified** as such by the **appraiser**.

Question:

Does USPAP require that an address for the subject property be reported in every summary real property appraisal report?

Response:

No, it does not. Standards Rule 1-2(e) is a binding requirement that states, in part: *In developing a real property appraisal, an appraiser must; ...identify the characteristics of the property that are relevant to the purpose and intended use of the appraisal, including: (i) its location and physical, legal, and economic attributes.* Additionally, Standards Rule 2-2(b), which is also a binding requirement, states; *The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum: (iii) summarize information sufficient to*

identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment; Comment: The real estate involved in the appraisal can be specified, for example, by a legal description, address, map reference, copy of a survey or map, property sketch, and/or photographs or the like. The summarized information can include a property sketch and photographs in addition to written comments about the legal, physical, and economic attributes of the real estate relevant to the purpose and intended use of the appraisal. The appraiser must provide information sufficient to *"identify the real estate involved in the appraisal."*

In some cases an address, particularly a post office box or other rural address may be misleading if no other identifying information such as a legal description is provided. In other cases an address is sufficient to meet USPAP requirements.

Question:

Which Standards and Standards Rules apply to developing an appraisal?

Response:

Standard 1 and Standards Rules 1-1 through 1-5 apply to developing a real property appraisal. Standard 6 and Standards Rules 6-1 through 6-6 apply to developing a mass appraisal. Standard 7 and Standards Rules 7-1 through 7-5 apply to developing a personal property appraisal. Standard 9 and Standards Rules 9-1 through 9-5 apply to developing a business appraisal.

Question:

Which Standards and Standards Rules apply to reporting an appraisal?

Response:

Standard 2 and Standards Rules 2-1 through 2-4 apply to reporting a real property appraisal. Standards Rules 6-7 and 6-8 apply to reporting a mass appraisal. Standard 8 and Standards Rules 8-1 through 8-4 apply to reporting a personal property appraisal. Standard 10 and Standards Rules 10-1 through 10-4 apply to reporting a business appraisal.

Question:

Is it ethical to disclose confidential information to a duly authorized professional peer review committee?

Response:

Yes. However, the appraiser must be aware of and comply with applicable laws or regulations that would prevent such disclosure. The Confidentiality section of the ETHICS RULE states, in part; *An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment. An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client; state enforcement agencies and such third parties as may be authorized by due process of law; and a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation. It is unethical for a member of a duly authorized professional peer review committee to disclose confidential information presented to the committee* Comment: *When all confidential elements of confidential information are removed through redaction or the process of aggregation, client authorization is not required for the disclosure of the remaining information, as modified.* It should be noted that the ASB modified the Confidentiality section of USPAP, as stated above, effective July 1, 2001.

Question:

Does USPAP require an appraisal, appraisal review, or appraisal consulting report to contain a section within the report labeled "Scope of Work"?

Response:

No. USPAP does not require that an appraisal, appraisal review, or appraisal consulting report contain a section specifically titled "Scope of Work". However, USPAP does require all reports to disclose the scope of work utilized in the assignment. The level of detail required is relative to the reporting option (self-contained, summary, or restricted) used in the assignment. For example, Standards Rules 2-2(b)(vii) requires the appraisal report to summarize sufficient information to disclose to the client and any intended users of the appraisal the scope of work used to develop the appraisal; And, the Comment to this Standards Rule

states, in part; ...The appraiser has the burden of proof to support the scope of work decision and the level of information included in a report... Requirements are set forth in USPAP for the level of information detail that must appear in a written report, but not for the form, format, or style of written reports. The form, format, or style of written reports is a function of the needs of users and appraisers. The substantial content of a report determines its compliance with USPAP. For further reading on this issue consult Advisory Opinion 22 (AO-22).

Question:

Does USPAP require appraisers to take continuing education courses?

Response:

Not directly. However, the COMPETENCY RULE mandates that prior to accepting an assignment an appraiser must have the requisite knowledge and experience to complete the assignment, or: 1. *disclose the lack of knowledge and/or experience to the client before accepting the assignment;* 2. *take all steps necessary or appropriate to complete the assignment competently;* and 3. *describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report.* Although the phrase "continuing education" is not used, clearly it could be one means to satisfy this rule. Additionally, Standards Rule 1-1(a), a binding requirement, states: *In developing a real property appraisal, an appraiser must: (a) be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal* Comment: *This rule recognizes that the principle of change continues to affect the manner in which appraisers perform appraisal services. Changes and developments in the real estate field have a substantial impact on the appraisal profession. Important changes in the cost and manner of constructing and marketing commercial, industrial, and residential real estate as well as changes in the legal framework in which real property rights and interests are created, conveyed, and mortgaged have resulted in corresponding changes in*

appraisal theory and practice. Social change has also had an effect on appraisal theory and practice. To keep abreast of these changes and developments, the appraisal profession is constantly reviewing and revising appraisal methods and techniques and devising new methods and techniques to meet new circumstances. For this reason, it is not sufficient for appraisers to simply maintain the skills and the knowledge they possess when they become appraisers. Each appraiser must continuously improve his or her skills to remain proficient in real property appraisal. (Bold added for emphasis) The last sentence of the Comment to SR 1-1(a) clearly indicates that in order to "be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal" appraisers must maintain and continuously improve their knowledge and skills. Thus some form of continuing education is required, although not explicitly by the USPAP document.

Disciplinary Action

Troy Shaver, CG – 902

Dayton, Tennessee

Violations: T.C.A. 62-39-208 and 62-39-326.

Consent Order: 16-hour course in Uniform Standards of Professional Appraisal Practice, Appraisal of Income Producing Properties, Highest and Best Use, Sales Comparison Techniques and Market Analysis.

Scott Taylor CR – 722

Atoka, Tennessee

Violations: T.C.A. 62-39-329 and 62-39-326

Consent Order: Course in Uniform Standards of Professional Appraisal Practice and Appraisal of Income Producing Properties.

Tennessee Real Estate Appraiser Commission
500 James Robertson Parkway
Suite 620
Nashville, TN 37243-1166

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Bolivar

Gary Standifer, Vice Chairman
Brentwood

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Morristown

Polly A. Dyer, Appraiser Member
Bon Aqua

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STAFF MEMBERS

Sandra S. Moore
Administrative Director

Chelsey Luke
Administrative Assistant RB1

Darlene Hendrix
Administrative Assistant RB1

Joyce Branham
Licensing Technician

Unless otherwise noted, the Commission meetings are scheduled to be held at 500 James Robertson Parkway, Nashville, Tennessee. Meetings start at 9:00 a.m. the public is invited to attend. Please call the Commission office to verify that the meeting will be held on the date scheduled.

" The Tennessee Department of Commerce and Insurance is committed to principles of equal opportunity, equal access, and affirmative action." Contact the EEO Coordinator or ADA Coordinator (615) 741-0481, for TDD (615) 741-7190.

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Commission Meeting Dates for
2002

January 14	Room 160
February 11	Room 160
March 11	Room 160
April 8	Room 160



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